



## United States Department of the Interior

### BUREAU OF LAND MANAGEMENT

Utah State Office  
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Salt Lake City, UT 84101  
<http://www.blm.gov/ut/st/en.html>



May 02, 2016

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### **DECISION**

WildEarth Guardians	:	Protest of the Inclusion of the Four
2950 Walnut Street	:	Parcels Comprising the May 2016
Denver, Colorado 80205	:	Competitive Oil and Gas Lease Sale

### **Protest Denied**

On February 11, 2016, the Bureau of Land Management (“BLM”) Utah State Office (“USO”) posted a Notice of Competitive Oil and Gas Lease Sale (“NCLS”) that identified parcels of land which the BLM proposes for oil and gas leasing at a competitive lease auction to be held on May 17, 2016 (May 2016 Lease Sale). The NCLS provided formal notice of a 30-day public protest period for the May 2016 Lease Sale which ended on March 14, 2016.

On March 14, 2016, BLM-USO received a letter, whereby WildEarth Guardians (“WEG”) protested all four parcels proposed for leasing at the May 2016 Lease Sale, UTU91540 (UT0516-021), UTU91541 (UT0516-023), UTU91542 (UT0516-024) and UTU91543 (UT0516-025).

WEG maintains in its protest that the BLM Environmental Assessment (“EA”) DOI-BLM-UT-C020-2016-0002 failed to estimate the amounts of greenhouse gases (“GHGs”) that could be emitted from development of the parcels, including those “from processing, transmission and ultimate combustion of any oil and gas”.

While the EA did generally discuss the potential for carbon emissions and impacts to air quality and climate change, an attempt to be more specific and quantitatively identify the potential impacts at the present stage was not employed because such an approach would be purely speculative and offer little value with respect to the informed decision-making objectives of the National Environmental Policy Act (“NEPA”). NEPA requires that agencies consider

reasonably foreseeable impacts, but it does not require extensive consideration of impacts, the likelihood of which are speculative in nature. See e.g. *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 356 (1989).

In regards to the emissions from the “ultimate combustion” of any oil or natural gas that could potentially be produced from the leases, it is uncertain how the products will be used; whether any or all of the oil and gas will be converted to plastics, or if any oil will be refined into other products that will not be burned. That, along with the mix of possible combustible products with disparate carbon emissions (e.g., auto fuel, bunker oil, diesel, kerosene) would make it impossible to calculate emissions even if a reasonable estimate of the foreseeable quantity extracted could be made. Therefore, the GHG emissions that ultimately may result from the consumption of products derived from the crude oil and gas produced from BLM leases would not be feasible to make even at the production stage, much less the lease stage. However, emission estimates may be made at the consumption stage during NEPA analyses by other federal agencies contemplating actions or permitting applications requiring the combustion of natural gas or oil products, as did the EA by estimating the greenhouse gases produced from the drilling, completion and operation of one well.

WEG’s assertion that, because the “Final EIS prepared for the Richfield Field Office’s Resource Management Plan nowhere analyze or assess (sic) greenhouse gas emissions associated with oil and gas development..the BLM clearly has no basis to conclude that greenhouse gas emissions resulting from the reasonably foreseeable impacts of oil and gas development associated with proposed leasing would not be significant” is not reasonable. The Council of Environmental Quality (“CEQ”) has explicitly stated that it “does not expect that an EIS would be required based on (global) cumulative impacts of GHG emissions alone” (CEQ, 2014 at 11), but rather the impacts of the proposed action’s GHG emissions “when added to the emissions of other *relevant* actions.” Using CEQ’s guidance for cumulative impact analysis, there is no need to rely on tiering to the analysis in a programmatic Environmental Impact Statement (“EIS”) to make a “Finding of No Significant Impact beyond those already analyzed in an EIS to which the EA is tiered” (BLM NEPA Handbook at 83).

WEG also maintains that the BLM failed to analyze the social cost of carbon (“SCC”) from the potential GHG emissions that may occur from development of oil and gas leases.

With respect to estimating the SCC, the BLM finds that including monetary estimates of the SCC in its NEPA analysis for this proposed action, which is not a rulemaking action, would not be useful or appropriate. There is no legal mandate or existing guidance requiring the inclusion of the SCC in the NEPA context. A federal Interagency Working Group on the Social Cost of Carbon (“IWG”), convened by the Office of Management and Budget, developed an SCC protocol for use in the context of federal agency rulemaking. The IWG issued estimates of the SCC, which reflect the monetary cost incurred by the emission of one additional metric ton of CO<sub>2</sub>. Estimating the SCC is challenging because it is intended to model effects on the welfare of future generations at a global scale caused by additional carbon emissions occurring in the present.

At the leasing phase, there are several challenges involved in attempting to apply the SCC to the analysis; for example:

- Given the global nature of climate change, estimating the SCC requires assessing the impacts on the global market for the commodity in question.
- Monetizing only certain benefits or costs can lead to an unbalanced assessment. A regional economic impact analysis is often used to estimate impacts on economic activity, expressed as projected changes in employment, personal income, or economic output. Such estimates are not benefits or costs, and are not part of a benefit cost analysis.
- The SCC estimates developed by the IWG can only be applied to CO<sub>2</sub> emissions, not other GHG emissions such as methane. Again, monetizing only certain effects can lead to an unbalanced assessment.

For the reasons set forth above, I have determined that offering the protested parcels at the May 2016 Lease Sale is in compliance all applicable laws, regulations and policies. Accordingly, the protest submitted by WEG is denied with respect to the aforementioned parcels.

This decision may be appealed to the Interior Board of Land Appeals (“IBLA”) in accordance with the regulations contained in Title 43 of the Code of Federal Regulations (“CFR”) Part 4 and as described on the enclosed BLM Form 1842-1. In order for an appeal of this decision to be considered, a written notice of appeal must be filed with this office (as described on the enclosed Form 1842-1) within 30-days from receipt of this decision.

If you wish to file a petition for a stay pursuant to 43 CFR § 4.21 as to the effectiveness of this decision during the time that your appeal is being reviewed by the IBLA, a petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification in accordance with the standards listed in 43 CFR § 4.21(b), which include:

- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant’s success on the merits;
- (3) The likelihood of irreparable harm if the stay is not granted; and
- (4) Whether the public interest favors granting the stay.

Copies of the notice of appeal, petition for a stay, and a statement of reasons must also be submitted to each party named in this decision and to the Office of the Regional Solicitor, Intermountain Region, U.S. Department of the Interior at Federal Building Room 6201, 125 South State Street, Salt Lake City, Utah 84138, at the same time that the original documents are filed in this office.

Please direct any questions regarding this decision to Sheri Wyson, Fluid Minerals Leasing Coordinator, at (801) 539-4067.

*/s/ Roger Bankert, Acting*

Kent Hoffman  
Deputy State Director  
Division of Lands and Minerals

Enclosure:

1. Form 1842-1

cc: Office of the Solicitor, Intermountain Region